UNITED NATIONS

CRC

Convention on the Rights of the Child

Distr.
GENERAL

CRC/C/SR.300
20 June 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

SUMMARY RECORD OF THE 300th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 29 May 1996, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of China (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16544 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of China (continued) (CRC/C/11/Add.7; HRI/CORE/1/Add.21; CRC/C/12/WP.5)

1. At the invitation of the Chairperson, the Chinese delegation resumed places at the Committee table.

2. The CHAIRPERSON said that the Committee would ask the secretariat to see that the written replies provided by the State party in Chinese to the questions on the list of issues (CRC/C/12/WP.5) were translated into the various languages. For the time being, the Committee would appreciate the Chinese delegation replying to questions Nos. 20, 25, 26, 29 and 31 on the list, which the Committee considered to be particularly important.

3. Mr. WU Jianmin (China), replying to question No. 20, said that the authorities attached great importance to the management of children's institutions and the training of the educational and medical personnel working in them. Various training courses were organized regularly, in particular by the Department of Health, the Ministry of Civil Administration, the Federation of Disabled Persons and UNICEF, as well as by the provinces and municipalities. In 1994, for example, the Ministry of Civil Administration had held seven training courses for people working with disabled children. A total of 250 educators and teachers had received such training. Classes for the parents of disabled children were also held. Thanks to the systematic training programme it had been conducting for years, the Ministry of Civil Administration now had a qualified staff capable of implementing programmes for disabled children and training other persons to do so.

4. In reply to question No. 25, he said that the figure of roughly 400,000 children born with defects in China every year had been drawn from a survey of disabled people conducted in 1987. Surveys had also been conducted to determine the living conditions of the disabled. The school enrolment rate for disabled children (question No. 26), which had been 20 per cent some years before, had risen to an average of 60 per cent and was even 90 to 95 per cent in the biggest cities. By redoubling its efforts, the Government hoped to raise that rate to an average of 80 per cent by the year 2000, in particular by establishing new classes for disabled children.

5. In reply to question No. 28, he said that the annual cost of educating a child for the nine years of compulsory free schooling was 487.22 yuan, of which only a small part (62.6 yuan according to State Committee on Education figures) was borne by the parents. Since that figure was still too high for poor families, however, the authorities had decided to exempt children whose families were in financial difficulty from miscellaneous charges.

6. To raise the school enrolment rate of girls and of children in poor regions (question No. 29), the Government was endeavouring to introduce more flexible forms of education, establish a fellowship system, raise public awareness of the problem and collect funds for dealing with it. Public funds were supplemented by a World Bank loan and voluntary contributions from

abroad. In order to meet its objective, the Government also ran projects to promote school attendance by girls, in collaboration with international organizations such as UNICEF and with NGOs.

7. Corporal punishment in schools (question No. 31) was explicitly prohibited by law, in particular the Compulsory Education Act and the Protection of Minors Act. Children who were subjected to such practices were entitled to file a complaint, and those responsible for such acts were liable to disciplinary sanctions and might even be prosecuted. The media saw to it that the public was made aware of the law prohibiting corporal punishment by heavily publicizing any violations. In addition, the State Committee on Education and the Chinese Teachers' Union had published a code of conduct for primary and secondary school teachers in 1991. In any event, cases of ill-treatment of children in school were quite rare, for it was a Chinese tradition to treat other people's children as one's own.

8. The CHAIRPERSON thanked the Chinese delegation for the information it had provided and invited the members of the Committee to request clarifications of points they found to be particularly important.

9. Mr. HAMMARBERG asked what steps were being taken to lower the mortality rate of children in orphanages. He welcomed the importance attached by the Chinese authorities to the training of specialized teachers, and in that connection would like to make a few recommendations based on experiments conducted in other countries.

10. Concerning teaching methods, it might be useful to focus on methods that had proved to be more productive than traditional theory classes, and lessons might also be drawn from the relevant experience of certain international agencies. For example, staff should be motivated by concern for the child's welfare in all circumstances and not obliged for financial reasons to give preference to some children over others, whose lives were at stake. He would also welcome information on any steps taken by the authorities to encourage adoption and placement in foster families. Everyone agreed that a harmonious family environment was more conducive to the child's development than an orphanage. Agencies such as UNICEF and WHO would undoubtedly be able to help the Chinese Government find constructive solutions.

11. Mrs. SANTOS PAIS asked for clarifications on how the legislative provisions on children were applied in practice. She would also like to know how the Government ensured that the institutions responsible for the care or protection of children conformed to the standards established by competent authorities, as required by article 3, paragraph 3, of the Convention. She also asked how the State party fulfilled its obligation under article 25 of the Convention, which set forth the right of a child who had been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

12. She would like to return to some issues raised at the previous meeting which appeared to her to be especially important. In particular, she was afraid that unregistered children in institutions were not subject to any

control measures because they had no identity card were not fully recogniz as individuals. It was absolutely essential for there to be some type of system for registering children, even if only through residence registrati cards, as mentioned by the Chinese delegation.

13. How could it be verified that the child recognized by the Tibetans as reincarnation of the Panchen Lama was being held in isolation in his own interest and in accordance with the parents' wishes, as the Chinese authorities stated? Moreover, how was it possible to speak of the best interests of the child when the child's opinion had not even been sought? Would it be possible to authorize a visit by United Nations representatives verify that the child was in good health? As for the child designated by t Chinese authorities, what proof existed that he was being protected? Beyon its religious and political aspects, in her view the situation was one of t children being held hostage.

14. Regarding corporal punishment, she wondered what the link was between decision of the Standing Committee of the National People's Congress menti in paragraph 257 of the report, to the effect that any minor disseminating pornographic material must be severely disciplined, and the statements to t effect that ill-treatment was not encouraged in China.

15. Mrs. BADRAN said that, based on her own experience of institutions fo the protection of children in China, the problem was less one of lack of expertise on the part of the institution's personnel than the need to promo a more understanding attitude towards certain groups of children, such as disabled children and orphans. She was surprised at some of the statistics published in the report, for example in paragraph 123 which stated that onl 2.66 per cent of the country's children were disabled, and would like to kn the exact source of those figures. Referring to the high percentage of children with mental deficiencies, she asked whether pre-nuptial examinati were conducted with a view to reducing that proportion.

16. China appeared to be making laudable efforts in the field of educatio but the Committee had not been given information on the steps taken to impr the quality of education. UNESCO might be extremely useful in that area, especially with regard to the situation of girl children. In that connecti she asked whether girls took part in school meetings and whether there were associations of parents of schoolchildren in China.

17. Mrs. SARDENBERG, returning to the problem of disabled children, which touched on the essential principles of the Convention, namely prevention of discrimination, promotion of the child's harmonious development and consideration for the child's best interests, said that it would be useful a standardized system for collection of statistics on children to be established in China, as the statistics given in the report were not unifor She encouraged all initiatives aimed at reducing the number of placements i institutions and promoting rehabilitation within community structures. Regarding the situation of the floating populations, whose children were ca for by neither the education nor the social protection system, she asked fo clarifications on the extent of the phenomenon, which appeared to be a rece one, and on the steps taken by the Government to protect such children.

18. Mrs. KARP asked whether "out-of-plan children" received compulsory free schooling as other children did or whether they were covered by a different system. She would also like to know the repercussions of such births for the other children in the family.

19. Regarding the situation in social institutions, she asked whether there was a compulsory inquiry procedure in the case of a child's death, and if so, whether the inquiry was conducted by an external body - such as a court or procurator - by representatives of a ministry or by the establishment itself. In a similar vein, she would like to know whether there were complaint procedures available to children in social institutions such as orphanages and in schools.

20. She would also like to know whether steps were taken to improve the situation in areas where the school enrolment rate was particularly low, not by providing families with direct assistance, but by other means of affirmative action.

21. Regarding the qualifications of personnel working with disabled children, she would like to know whether, considering the particularly low rate of participation in the training courses, any plans or mechanisms were being prepared to expand skill-building programmes, in view of the fact that some institutions had highly-qualified personnel while others were far below standard.

22. Mrs. EUFEMIO said that training alone was not sufficient to guarantee the skills of personnel working in institutions for children in difficulty. Disciplinary measures and inspections risked increasing the stress on personnel already working under trying conditions. For that reason, she wondered whether it would be possible to establish a professional social worker's association that would operate on the basis not of authority but of exchange of experience.

23. Mr. WU Jianmin (China) assured the members of the Committee that his delegation would inform the Chinese authorities of the Committee's suggestions, which without any doubt reflected a concern for improving the lives of children in China. That concern was fully shared by the Chinese Government.

24. Mr. LIU Xinsheng (China), replying to Mrs. Badran's question, said that pre-nuptial examinations were provided for in a provision of the 1982 Marriages Act, for the purpose of preventing consanguineous marriage and marriage between people with mental deficiencies.

25. Regarding corporal punishment, he said that the legislation his delegation had referred to earlier was strictly enforced and the provisions mentioned in paragraph 257 of the report concerning children who disseminated pornographic material should not be interpreted as an encouragement to use corporal punishment. Emphasis was placed on persuasion, and if any punishment was imposed, it must not be corporal punishment.

26. If the figures on participation in training courses appeared to be negligible, that was simply because they did not cover the courses held at th highest levels of the administration. Those training activities were then pursued at local level; that had not been explained to the Committee.

27. Mr. LI Yong (China), said that certain care institutions in remote area had indeed been forced to admit both children and adults, but solely because of the economic difficulties with which the country was coping. That situation was actually in the best interests of the children, for, there woul have been no structure to receive them otherwise. Naturally it was preferabl for care institutions to be specialized. In the establishments in question, children and adults were strictly separated. Two new institutions for children had been established in 1996, and five specialized children's care units had already applied to the Ministry of Social Affairs to become autonomous.

28. Concerning adoption costs, he said that any foreigner wishing to adopt child in China must pay the relevant notary fees and administrative costs. I was possible for those expenditures to be shared between the adoptive and the original families. The fees paid to social institutions were used entirely for improving the premises and the children's living conditions. The Chinese Government was anxious to prevent any abuse in the area of adoption fees. He hoped members of the Committee would continue to monitor the situation and inform him of any irregularities, in which case an inquiry would be conducted without delay.

29. Concerning financial resources for orphanages, he said that there were three financing channels: a lottery system, which brought in 50 million yuan per year, contributions from businesses and donations from individuals, which made it possible to provide free hospital care, and money orders sent by Chinese living abroad, which amounted to 25 million yuan per year.

30. Disciplinary measures for personnel in child-care institutions, include criticism, self-criticism, warnings and even dismissal. Anyone breaking the law was held accountable.

31. He referred the members who had asked about the total number of orphans to the replies given to question 21. Concerning training methods for the personnel in child-care establishments, much remained to be done, but there were already several courses that provided not only theoretical training, but also practical training in a clinic or laboratory, for example. Regarding foster care for orphans, he said that 23,000 of the 100,000 orphans in China were in institutions, with the others being legally adopted or placed with families. There were several conditions imposed on the managements of child-care institutions; 60 per cent of the staff must be professionals, the ratio of professionals to orphans must not be more than 1 to 6 and the ratio of professionals to disabled orphans must not exceed 1 to 1.5. The number of persons having received training at the highest level had already been indicated, but mention should also be made of the people trained at the municipal and district levels and in the establishments themselves.

32. Reference had been made to exchanges of experience among professionals. Such exchanges did take place, for example with individuals or community workers. There were also numerous supervisory mechanisms in child-care institutions. They included the competent bodies, which were able to keep informed of activities in their respective fields; society at large, which acted through the Women's Federation, young people's organizations, the press and the National People's Congress; the competent administrative services, which sent their inspectors to help resolve any problems that arose; the Ministry of Social Affairs, which conducted general inspections throughout the country; and the institutions themselves, which were all encouraged to establish or improve their regulations and ensure that they were enforced. The quality of the management and services was improving and incompetent personnel were replaced. Legislative and administrative provisions covered those establishments, especially the management thereof, and registration of the organizations concerned was planned.

33. The CHAIRPERSON invited the Chinese delegation to reply to the questions on the list of issues (CRC/C.12/WP.5) which related to special protection measures, beginning with questions Nos. 33, 34, 35 and 36.

34. Mr. WU Jianmin (China), replying to the first question, said that when there was a disturbance of public order, the offender was liable to a warning, a fine or a prison term of one to 15 days; if the offender was between 14 and 18 years of age the punishment was less harsh and offenders under 14 years of age were not punished. A person under 18 years of age who was the subject of court proceedings had to be defended by a lawyer - court-appointed, if necessary - and to be informed of the charges against him and of his rights.

35. The reply to question No. 34 was contained in the 1986 Administrative Sanctions Act and in the Compensation Act, which stated that a person under 14 years of age was not punishable, a person between 14 and 18 years of age was treated leniently by the court and every minor was entitled to legal and administrative assistance.

36. Reductions of sentence (question No. 35) were granted to minors for repentance or good conduct in prison. Similarly, the prison term of a minor sentenced to life imprisonment could be reduced after one and a half years. Most sentences were in fact reduced.

37. In reply to question No. 36, he repeated what he had said earlier about the work of artists, athletes and craftspeople under 16 years of age and the protection they were given and noted that it was prohibited to employ minors in arduous or dangerous work or work in a toxic environment.

38. The CHAIRPERSON noted that two questions remained unanswered: they concerned children not registered at birth and the reliability of the system for the collection of statistical data, which did not take abandoned or disabled children into account.

39. Mr. WU Jianmin (China) said that all children admitted to care centres could be registered and that his country's data collection system was reliable.

40. The CHAIRPERSON said that she doubted whether a universal data collectio system as described by Mr. Wu, was in fact reliable.

41. Mr. HAMMARBERG reminded Mr. Wu Jianmin that Mr. Wu himself had acknowledged that the data collection system was not extremely accurate.

42. Mr. WU Jianmin (China) replied that all statistics were only relatively reliable, that the specific situation of the country in question had to be considered and that, given the circumstances, China had done its best. The data collection system would certainly improve as the country developed economically.

43. Mr. HAMMARBERG pointed out that the Committee was concerned at the possible failure to register girls, because, in view of China's family planning policy and parents' preference for boys, some girls risked not appearing in the civil register and therefore not having the same opportunities as boys, if only to attend school, for example.

44. Mrs. SANTOS PAIS said that the question of birth registrations was linke to that of the minimum age of criminal responsibility. She wondered how it was possible to determine the age of a person who had not been registered and therefore had no legal existence. She also noted that, although the age of criminal responsibility was 16, it was only 14 in the event of disturbance of the public order, and according to paragraph 220 of the report, the kind of person detained in juvenile correctional facilities tended to be juveniles aged between 14 and 18. She asked what system was available for supervising persons under 14 years of age. According to the Beijing Rules, the age of criminal responsibility should correspond to the age of marriage.

45. She also found that neither the report nor the oral explanation clearly indicated whether specific guarantees existed, for example regarding respect for the presumption of innocence. How repentance was evaluated - with respect to silence, or confession of guilt, for example - had also not been described clearly. Similarly, it seemed that not all offences were defined precisely, but that certain acts were considered to be offences because they resembled those explicitly covered in legislation. That practice was contrary to the rule "Nullum crimen sine lege, nulla poena sine lege".

46. Another problem concerned access to legal assistance to enable the defence counsel to prepare the defendant's case. It had been stated before the Committee against Torture that the time allotted to the lawyer of an adult was insufficient. It was therefore even more so in the case of a minor.

47. The Convention was clearly opposed to life imprisonment and the death penalty for a person under 18 years of age. The fate of offenders who showed no signs of repentance therefore, gave cause for concern. Although sentences were reduced in most cases, what happened to minors whose sentences were not reduced? Was Chinese practice compatible with the provisions of article 37 (a) of the Convention, given that Chinese legislation provided for the death sentence for persons under 16 years of age, with the execution suspended for two years? What happened during that two-year period, and was the procedure itself not a form of inhuman and degrading treatment?

48. Miss MASON asked what happened to street children, whether they were part of the floating population or had not been registered. No documented reply had been provided for questions 39 and 40, on abduction, sale, purchase and sexual exploitation of children, especially girls. Those were practices that harmed the physical, moral, mental and psychological health of the children in question. It was true that the legislation was adequate, but its implementation appeared to leave much to be desired. She wondered whether investigations had been conducted into the frequency and possible causes of those practices. Had efforts been made to account for cases of abuse and provide services for both the culprits and the victims? Were statistics kept on cases of abduction and trafficking in young women, who were often sent abroad for prostitution and, when they did manage to return home, were the victims of prejudices that prevented them from re-entering society? Finally, were there measures to curb sexual tourism, which affected mainly the Asian and African countries?

49. Mrs. BADRAN asked whether there were social workers trained in human rights among the personnel responsible for administering juvenile justice. If not, China might ask the Centre for Human Rights for assistance in that area. She also suggested that the State Council might establish a national database to improve evaluation of the implementation of the Convention.

50. Mrs. KARP asked the delegation to specify the number of children sentenced to death who had been executed before reaching the age of 18 and the number of death sentences commuted.

51. Concerning the rehabilitation of juvenile offenders through labour, she would like additional information on the situation of children placed in the centres mentioned, who were deprived of their liberty. Were they entitled to appeal decisions concerning them when the decisions had not been taken by a court?

52. Mr. WU Jianmin (China) said that there was not sufficient time for him to reply to all the Committee's questions, but that the Committee might transmit the unanswered questions to the Permanent Mission of China, which would forward them to the competent Chinese services.

53. The CHAIRPERSON asked Mr. Wu Jianmin at least to reply to the last questions raised by the Committee.

54. Mr. WU Jianmin (China), replying to Mrs. Santos Pais' question, said that life imprisonment and death sentences against minors under article 44 of the Penal Code were invariably commuted, since those sentenced all showed repentance for their acts after being placed in rehabilitation centres.

55. The CHAIRPERSON asked the Chinese delegation for additional information on street children and children who were the victims of sexual abuse and abduction.

56. Mr. WU Jianmin (China) said that measures of prevention had been taken for such children; the measures were described in the Government's written replies.

57. The CHAIRPERSON thanked Mr. Wu Jianmin for his clarifications and invited the members of the Committee to inform the delegation of their preliminary conclusions.

58. Mr. HAMMARBERG thanked the Chinese delegation for its replies and expressed regret that the services of the United Nations Office at Geneva had not had sufficient means available for translation of the Chinese Government's written replies, which had been transmitted to the Committee in Chinese. The Committee's questions had been based on information drawn from China's initial report and from the United Nations specialized agencies, various United Nations committees, non-governmental organizations and the media. The Committee's dialogue with the Chinese delegation had been constructive and would help promote the rights of the child in China. He welcomed the progress made in China with regard to social services, health, education and legislation. However, the Chinese Government might consider revising the legislation in force to take into account the principles set forth in the Convention, the interpretation of which had changed in recent years. The Chinese authorities would also do well to consider establishing a monitoring system to allow for rapid response to the new problems being raised by the situation of children. To that end, several countries had established the post of ombudsman, with successful results.

59. Regarding the dissemination of the Convention, it would be advisable for the Government to have the shortened version of the text of the Convention translated into the minority languages, for use by teachers and others working with children. It would also be worthwhile establishing a standardized system for collection of data on the situation of children.

60. He regretted that there had not been enough time to discuss the question of resources that the States parties should allocate for the implementation of the Convention, but he welcomed the fact that the National People's Congress had requested an increase in the education budget. The authorities should ensure that resources were better distributed in order to prevent disparities in children's social services from region to region.

61. In his view, local political leaders had an important role to play in raising public awareness of the fact that girls had as much value as boys. Stricter measures should be taken to combat the abandonment, and even infanticide, to which female children were subject. The authorities should ensure that family planning policy did not represent a threat to the lives of little girls. Social welfare measures might be taken, in rural areas, for example, so that the people did not have to depend on their children for a living. Efforts should also focus on combating the trafficking, abduction and sale of children and ensuring that people who subjected children to sexual abuse were severely punished.

62. Regarding Tibet, he noted that the Committee was concerned at the fate of the child chosen by the Dalai Lama to become the new Panchen Lama, and of all Tibetan children in general. He and Mrs. Santos Pais had volunteered to propose the establishment of a mechanism for diminishing the conflict in Tibet. Concerning child labour, the Chinese authorities might consider ratifying ILO Convention No. 138, which reflected the spirit of the Convention.

63. Mrs. KARP said that China should give greater consideration to individual rights, and to civil rights in particular, which would not necessarily be to the detriment of the community. She welcomed the progress made in the protection of children and said that she was convinced that China had the necessary cultural resources to make greater progress in that area.

64. Mr. WU Jianmin (China) said that his delegation had taken note of the Committee's conclusions. Every country had to be considered in its context. Before 1949, the population of China had been 500 million, 400 million of whom - half of them children - suffered from hunger. There were currently 1,200 million Chinese, and the hunger problem had been resolved. Before 1949, the infant mortality rate had been 200 per thousand; it was now 43 per thousand. Before 1949, the illiteracy rate had been 80 per cent; it was now 12.1 per cent. Before 1949, the school enrolment rate of children had been less than 20 per cent; it was now 98 per cent. It had to be acknowledged that the situation of children in China, i.e. of one out of every five of the world's children, had improved considerably.

65. The cold war was over, but the world had not forgotten its prejudices, and lies continued to be told about China. In 1989 and 1990 everyone had been predicting that the Chinese Government would fall and the Chinese economy collapse, but nothing of the kind had occurred. On the contrary, the last six years had been exceptional from the point of view of economic growth. The media never spoke optimistically of China, as they did of other developing countries, and yet the Committee was basing its deliberations on information provided by those same media. In addition, certain non-governmental organizations were not objective and constantly levelling unjustified accusations at China. The world needed understanding, and China needed to understand the world, just as the world needed to understand China, through an objective dialogue devoid of accusations. He invited the members of the Committee to visit China to evaluate the situation there, for reality was better than words.

66. The CHAIRPERSON, on behalf of the Committee, thanked the Chinese delegation for the dialogue it had held with the Committee. She stressed the fact that the Committee's working method was based on the provisions of article 45 of the Convention, which stated in particular that the Committee, in performing its work, might use information provided by sources other than Governments. After considering over 50 reports by States parties, the Committee had not yet encountered a model State as far as the implementation of the Convention was concerned. It also attempted to go beyond a strictly bureaucratic framework by making field visits. It would therefore be pleased to accept the delegation's invitation to visit China.

67. The Committee hoped that the Chinese authorities would publicize its conclusions and recommendations, which were aimed at helping the Government find the best solutions. She expressed the hope that the next periodic report of China would indicate the progress achieved in the protection of children and a real improvement in the situation of children.

68. The Chinese delegation withdrew.

The meeting rose at 1.20 p.m.